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LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT OF VIET NAM (CCPR/C/VNM/2001/2), ADOPTED BY THE HUMAN RIGHTS COMMITTEE ON 12 OCTOBER 2001

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. What is the status of the Covenant in domestic law? Can its provisions be invoked directly before the courts? If so, please give examples.

2. Is the State party considering ratifying the first Optional Protocol to the Covenant?

3. Please inform the Committee of the legal status of governmental and non-governmental domestic and international human rights organizations in Viet Nam, their number, and their role in monitoring conditions or conducting research.

Freedom of assembly and association and participation in the conduct of public affairs (arts. 21, 22 and 25)

4. What is the concrete interpretation given to the notion of "national security"? Does the notion of national security constitute a permissible restriction of the right to freedom of assembly (which is protected by "the provisions of the law" within the terms of article 68 of the Constitution)? If so, to what extent does it affect the freedom of assembly? How many people are currently detained on charges of crimes against national security?

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5. Please provide clarification on the laws and regulations that guarantee the independence of political, labour and social organizations that are not subject to government control. What is the situation in practice?

6. Given the leading role of the Communist Party in the State party, please explain how the Government of Viet Nam views the compatibility of this situation with the rights protected under the Covenant, especially under articles 25, 2 (3) and 26.

Independence of the judiciary; right to a fair trial (art. 14)

7. Please provide additional information on:

(a) The composition of and the procedure before the People's Courts (para. 15). Which circumstances allow for the creation of the People's Courts, and what issues are these courts concerned with?

(b) The functions of the Vietnamese Communist Party, the National Assembly and the Fatherland Front in the appointment and discipline of judges and assessors. Who are the people's assessors, how are they appointed and what is their role in the trial process (para. 39)? How is the independence of judges guaranteed? Are judges granted security of tenure?

(c) "Special cases", in law and in practice, which exempt the People's Courts from holding their hearings in public (para. 71).

8. How is it ensured, in practice, that defendants are allowed access to prosecution evidence in advance of the trial, to cross-examine witnesses (para. 71) and to defence counsel of their own choice (para. 74)? Is the indictment in practice notified to the accused or his her legal representative and the defence counsel at least 10 days before the opening of the trial (para. 81)?

Liberty and security of the person and treatment of detainees (arts. 9 and 10)

9. Please provide statistics on the number of pre-trial detainees, and on the percentage of such detainees in relation to the overall prison population.

10. Please elaborate on article 71 of the Constitution, in particular the provision which stipulates that "taking a person into, or holding him/her in, custody must be done with full observance of the law" (para. 44). In what circumstances is it permissible for officials to arrest and/or detain individuals without a warrant? For how long may an arrested person be kept in detention before being brought before a judge? What criteria do the courts use to decree pre-trial detention? Does the remedy of habeas corpus exist in Viet Nam (para. 48)?

11. Please provide further information about the provisions of the 1997 Administrative Detention Directive, in particular article 2 thereof, which authorizes security officials to detain individuals for up to two years without trial and keep them under house arrest on grounds of national security.

12. Please provide information on the legal regime governing prisons and the conditions of detention in prisons. Are prisoners of conscience subject to a different regime from other prisoners?

Principle of non-discrimination; gender equality; protection of minorities (arts. 3, 26 and 27)

13. What are the percentages of women and of people belonging to minority groups in the National Assembly, in government positions of responsibility and in public office? Does the State party guarantee, in practice, that women and men receive equal pay for work of equal value (article 63 of the Constitution)?

14. Is there, in practice, a policy of population displacement to new economic zones (NEZ)? If so, what are its consequences for tribal people?

15. Please provide information on minorities in Viet Nam, including the Khmer Krom community.

Right to life (art. 6)

16. Paragraph 38 of the report states that the Criminal Code has since 1999 added four new articles, which impose capital punishment for offences not previously subject to the death penalty. Please provide detailed additional information and statistics on death sentences handed down after convictions for these offences. For which crimes can the death penalty be imposed?

17. For which crimes may the death penalty be imposed? How many death sentences have been issued in the period 1997-2001 and for what crimes? In which cases were they carried out? Please comment on reports that there have been recent public executions in the State party.

18. Please furnish details on family planning policies and on legal provisions governing abortion. Please provide statistics about the number of pregnancies ending in abortion.

Prohibition prevention of torture and cruel, inhuman or degrading treatment; treatment of prisoners and other detainees (arts. 7 and 10)

19. With reference to paragraph 41 of the report, please provide more precise information on the studies, "great efforts" and "specific measures" undertaken by the State party to combat the occurrence of torture. Please comment on reports that people belonging to ethnic minorities (in particular, members of the Montagnard minority) have been beaten, harassed and tortured by the police, local authorities and the military.

20. With reference to paragraph 43 of the report, for which violations of detention discipline rules prisoners may be "fettered". How can this practice be reconciled with article 7 of the Covenant? Please comment on reports, received by the Committee, that security officials beat detainees.

21. Please provide relevant information on the measures taken to combat violence against women, including domestic violence. What are the legal provisions in place on this issue?

Prohibition of slavery, servitude, forced or compulsory labour, and rights of the child (arts. 8 and 24)

22. What measures are taken by the State party to ensure that forced labour is not practised in prisons and that children are not subjected to forced labour?

23. In the light of reports of increased trafficking within and outside of the country, what concrete steps have been taken to combat the trafficking of women for the purpose of forced marriage and the trafficking of women and children for prostitution?

Freedom of movement (art. 12)

24. Please elaborate on:

(a) Possible restrictions on the right to freedom of movement, especially in the Central Highlands. What would be the justification for such restrictions? What consequences do these restrictions have for tribal and indigenous peoples?

(b) The system of registers and residence permits in place in Viet Nam and its effects on the exercise of the rights under article 12.

25. Please explain the treatment, in law and in practice, of citizens of Viet Nam who have sought refuge in another country and who are forcibly returned. Please comment in particular on the status of persons belonging to the Montagnard group, said to have fled to Cambodia and subsequently to have been repatriated to Viet Nam.

26. With reference to paragraph 102 (4) of the report, please comment on reports that several religious leaders have been denied exit visas to attend conferences abroad, in violation of article 12 (2) of the Covenant.

Privacy (art. 17)

27. Please comment on reports that the Government opened or censored the mail of certain categories of persons, confiscated packages, and monitored telephone, electronic mail, and facsimile transmissions.

Freedom of religion and conscience (art. 18)

28. What are the Government's criteria for recognizing religious organizations? Is it considered compatible with article 70 of the Constitution and article 18 of the Covenant, that only six religions have been officially recognized in Viet Nam?

29. In how many instances have the provisions of the Penal Code (arts. 81, 205-a) which deal with freedom of religion and its possible abuses been applied and resulted in convictions over the past five years? Please give the names of convicted prisoners and the length of their sentences.

30. Please explain what is meant by the provision of article 70 of the Constitution, under which "no one can ... misuse belief and religion to contravene the law and State policies" (para. 93). Please elaborate further on the statement that Decree 69/HDBT of 21 March 1991 "aims to prevent and prohibit violations of freedom of belief and misuse of religions to conduct activities against the State, undermine the unity and the interests of the people" (para. 95).

31. Please specify the contents, and instances of practical application, of the articles mentioned in paragraph 96 of the report, concerning: the people's religious life, repair and construction of places of worship; printing/publishing sacred texts and holy books; production/importation of religious cultural articles and instruments used in religious rituals; training of religious dignitaries, monks and priests; charity activities of religious organizations.

32. Is military service obligatory? If so, is conscientious objection to military service permitted?

Freedom of opinion and expression (art. 19)

33. In the light of paragraph 103 of the report, what are the measures taken by the State party, in law and in practice, to ensure the effective exercise of the right to freedom of opinion and expression by the media and the public in Viet Nam? In the light of paragraphs 104 and 105, what circumstances justify the imposition of censorship?

34. Please list and explain cases in which foreign and domestic newspapers, radio stations, satellite television channels, and Web sites have not been licensed or authorized to publish/broadcast by the competent authorities.

35. How is the selection by the Government of a restricted number of publishing houses for religious texts and other works of a religious nature (see article 7 of Decree 79/CP) compatible with article 18 of the Covenant (para. 97)?

Dissemination of information relating to the Covenant (art. 2)

36. Do programmes exist for the education and training of members of the judiciary, law enforcement officials and other public officials about the rights of individuals recognized in national legislation and in international instruments like the Covenant? Are such programmes envisaged?

37. What measures, if any, have been taken to disseminate the contents of the Covenant and the present report in the State party?